

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In Re Application of:

**Mikko K. VIRT** : Confirmation No. **7632**  
Serial No: **10/668,105** : Examiner: **J. CARDENAS NAVIA**  
Filed: **September 22, 2003** : Group Art Unit: **3624**  
For: **DYNAMIC CALENDER RESERVATION**

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**BRIEF FOR APPELLANT (37 C.F.R. § 41.37)**

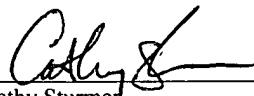
Sir:

This brief is in furtherance of the Notice of Appeal filed in this case on April 22, 2010.  
This is an appeal from the final Office Action mailed January 22, 2010, and in response to the  
Notice of Panel Decision dated June 7, 2010.

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**I. REAL PARTY IN INTEREST (37 C.F.R. § 41.37(c)(1)(i))**

The real party in interest in this appeal is Nokia Corporation, a corporation organized under the laws of Finland.

**II. RELATED APPEALS AND INTERFERENCES (37 C.F.R. § 41.37(c)(1)(ii))**

There are no related appeals or interferences.

**III. STATUS OF CLAIMS (37 C.F.R. § 41.37(c)(1)(iii))**

Claims 1, 3-24 and 27-32 are pending in this application. Claims 1, 3-24 and 27-32 are rejected, and the rejection of claims 1, 3-24 and 27-32 is being appealed.

**IV. STATUS OF AMENDMENTS (37 C.F.R. § 41.37(c)(1)(iv))**

No amendment was filed after the final rejection, and therefore all amendments have been entered.

**V. SUMMARY OF CLAIMED SUBJECT MATTER (37 C.F.R. § 41.37(c)(1)(v))**

Independent claim 1 is directed to a method that includes recording in an electronic schedule apparatus at least one amount of personal time during which no bookings by others are allowed. *See* specification page 2, lines 26-28; page 7, line 6. The method of claim 1 further includes storing in the electronic schedule apparatus at least one respective interval of time during which the at least one amount of the personal time is to be reserved. *See* specification page 7, lines 7-9. The at least one respective interval of time is a fixed interval of time. *See* specification page 5, lines 15-17. The method also includes receiving at the electronic schedule apparatus an electronic inquiry about availability for a booking. *See* specification page 7, lines 16-18. The method further includes determining or indicating whether the at least one amount of personal time can fit within the at least one respective interval in order to accommodate the booking without causing a scheduling conflict. *See* specification page 7, lines 19-20. The method of claim 1 also includes rejecting the booking in case of a scheduling conflict between the booking and the personal time. *See* specification page 7, line 21. Furthermore, in claim 1 each of the at least one amount of the personal time is less than the respective interval of time. *See* specification page 3, lines 7-14.

Independent claim 17 is directed to a computer-readable medium or media for use in a terminal, and the medium or media being encoded with at least part of a data structure. *See* specification page 4, lines 7-8; page 8, lines 15-18; page 11, lines 8-10. The data structure for recording in an electronic schedule apparatus at least one amount of personal time during which no bookings by others are allowed. *See* specification page 2, lines 26-28; page 7, line 6. The data structure is further for storing in the electronic schedule apparatus at least one respective interval of time during which the at least one amount of the personal time is to be reserved. *See* specification page 7, lines 7-9. The at least one respective interval of time is a fixed interval of time. *See* specification page 5, lines 15-17. The data structure is also for receiving at the electronic schedule apparatus an electronic inquiry about availability for a booking. *See* specification page 7, lines 16-18. The data structure is also for determining or indicating whether the at least one amount of personal time can fit within the at least one respective interval in order to accommodate the booking without causing a scheduling conflict. *See* specification page 7, lines 19-20. The data structure is further for rejecting the booking in case of a scheduling conflict between the booking and the personal time. *See* specification page 7, line 21. Furthermore, in claim 17 each of the at least one amount of the personal time is less than the respective interval of time. *See* specification page 3, lines 7-14.

Independent claim 18 is directed to an apparatus that includes a personal time recorder that is configured to record at least one amount of personal time during which no bookings by others are allowed. *See* specification page 2, lines 26-28; page 8, lines 21-24; Figure 2 (205). The apparatus of claim 18 also includes an interval storage unit that is configured to store at least one respective interval of time during which the at least one amount of the personal time is to be reserved. *See* specification page 8, lines 23-25; Figure 2 (215). The at least one respective interval of time is a fixed interval of time. *See* specification page 5, lines 15-17. The apparatus further includes a receiving component that is configured to receive an electronic inquiry about availability for a booking. *See* specification page 9, lines 7-12; Figure 2 (240). The apparatus also includes a transmitting component that is configured to reject the booking in case of a scheduling conflict between the booking and the personal time, where the at least one amount of personal time cannot fit within the at least one respective interval in order to accommodate the booking without causing a scheduling conflict. *See* specification page 9, lines 1-4; Figure 2 (230). The apparatus further includes a user calendar database that is configured to integrate data from the personal time recorder

and the interval storage unit into an electronic schedule. *See* specification page 8, lines 26-28; Figure 2 (225). In claim 18 each of the at least one amount of the personal time is less than the respective interval of time. *See* specification page 3, lines 7-14.

Independent claim 23 is directed to a system that includes a user terminal that is responsive to user input, and configured to provide a personal time and interval signal indicative of at least one amount of personal time and a respective interval of time during which the at least one amount of personal time is reserved. *See* specification page 9, lines 19-22; Figure 3 (310). The at least one respective interval of time is a fixed interval of time. *See* specification page 5, lines 15-17. The system also includes a user scheduling component that is responsive to the personal time and interval signal, and configured to provide a booking availability signal indicative of whether the at least one amount of personal time can be situated so that a booking fits into an electronic schedule. *See* specification page 9, lines 22-25; Figure 3 (320). The system further includes an inquiring terminal that is responsive to the booking availability signal, and configured to indicate to an operator of the inquiring terminal whether the at least one amount of personal time can be situated within the interval so that the booking fits into the electronic schedule, and configured to reject the booking in case of a scheduling conflict between the booking and the personal time. *See* specification page 9, lines 25-28; Figure 3 (330).

Independent claim 27 is directed to an apparatus that includes means for recording at least one amount of personal time during which no bookings by others are allowed. *See* specification page 2, lines 26-28; page 8, lines 21-24; Figure 2 (205). The apparatus also includes means for storing at least one respective interval of time during which the at least one amount of the personal time is to be reserved. *See* specification page 8, lines 23-25; Figure 2 (215). The at least one respective interval of time is a fixed interval of time. *See* specification page 5, lines 15-17. The apparatus further includes means for receiving an electronic inquiry about availability for a booking. *See* specification page 9, lines 7-12; Figure 2 (240). The apparatus also includes means for rejecting the booking in case of a scheduling conflict between the booking and the personal time, where the at least one amount of personal time cannot fit within the at least one respective interval in order to accommodate the booking without causing a scheduling conflict. *See* specification page 9, lines 1-4; Figure 2 (230). The apparatus further includes means for integrating data from the personal time recorder and the interval storage unit into an electronic schedule. *See* specification page 8, lines 26-

28; Figure 2 (225). In claim 27 each of the at least one amount of the personal time is less than the respective interval of time. *See* specification page 3, lines 7-14.

**VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL (37 C.F.R. § 41.37(c)(1)(vi))**

Claims 1, 3-24 and 27-32 are rejected under 35 U.S.C. § 103(a) as unpatentable over *Dean et al.* (U.S. Patent No. 6,167,379) in view of *Barto et al.* (U.S. Patent No. 7,069,097).

**VII. ARGUMENT (37 C.F.R. § 41.37(c)(1)(vii))**

*Rejections Under § 103(a) in view of U.S. Patent No. 6,167,379 and U.S. Patent No. 7,069,097*

Claim 1

Appellant respectfully submits that claim 1 is not disclosed or suggested by the cited references, because the cited references fail to disclose or suggest all of the limitations recited in claim 1. The cited references, alone or in combination, at least fail to disclose or suggest that the at least one respective interval of time is a fixed interval of time, as recited in claim 1.

The instant application defines an amount of time that can be scheduled dynamically within a time interval during a working day. The amount of time is of fixed length but it is not fixed to a certain time of the day. The calendar ensures that it is scheduled somewhere within the hours that are defined by a user. However, the Office states on page 2 of the Office Action that in most uses of appellant's invention the "at least one respective interval of time" is not a "fixed interval of time." Page 5, lines 7-10 of the appellant's specification states that the time limits can be either allowed percentages of the whole time, or required free time within the whole time stated in hours and/or minutes. For example, a simple technique is to use percentages if the time does not need to be continuous, but to use absolute time (i.e. hours and/or minutes) if the time must be continuous. At least this section of the specification provides support for the limitation "wherein the at least one respective interval of time is a fixed interval of time," in addition support can also be found from Figure 1 and page 4, lines 22-29. Therefore, as long as the specification provides proper support for the limitation it is irrelevant whether some embodiments of the invention do not require a fixed interval of time. Appellant respectfully notes that while the claims are interpreted in view of the specification, it is improper to import limitations from the specification into the claims. *See* MPEP § 2111.01

The Office acknowledges on page 4 of the Office Action that *Dean* does not disclose storing in the electronic schedule apparatus at least one respective interval of time during which the at least one amount of the personal time is to be reserved, and that each of the at least one amount of personal time is less than the respective interval of time, and relies upon *Barto* for this teaching. *Barto* relates to automated scheduling of processes within a semi-conductor processing plant, and thus is in a totally different field than the present application. *See Barto* column 1, lines 22-36; column 2, lines 4-19. In order to rely on a reference as a basis for rejection of an

applicant's invention, the reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned. *See In re Bigio*, 72 USPQ2d 1209, 1211 (Fed. Cir. 2004); *In re Oetiker*, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992). *Barto* describes a complex algorithm and a complex bidding system whereby a "consumer" presents requests through software agents to access particular shared resources. *See Barto* column 8, line 57—column 9, line 24. *Barto* is directed to automated manufacturing environments, such as semiconductor manufacturing, and more particularly, to a method and apparatus for reducing scheduling conflicts for a resource. The field of invention for the present application is calendars and in particular electronic calendar systems. One of skill in the art of developing electronic calendars for people to use in their daily lives would not turn to the field of automated manufacturing equipment, because the structure and function of automated manufacturing equipment is entirely distinct from personal electronic calendars, and therefore would not rely upon *Barto* for the teachings asserted by the Office. *See State Contracting & Eng'g Corp. v. Condotte America Inc.*, 68 USPQ2d 1481, 1489 (Fed. Cir. 2003) (similarity in the structure and function of the invention and the prior art is indicative that the prior art is within the inventor's field of endeavor). In addition, *Barto* is not reasonably pertinent to the particular problem with which the applicant of the current application is concerned. A reference is considered reasonably pertinent if it is one that would have logically commended itself to an inventor's attention in considering his problem. *In re Clay*, 23 USPQ2d 1058, 1061 (Fed. Cir. 1992). The inventors of the present application would not have paid attention to a reference such as *Barto*, since it is directed to automated manufacturing environments and reducing scheduling conflicts for a resource used in the manufacturing environments. These are entirely different problems than the present application with is directed to flexible scheduling of activities and meetings for persons. Therefore, for at least the reasons discussed above *Barto* is non-analogous art, and the Office is not permitted to rely upon *Barto* in rejecting the claims of the present application.

Furthermore, even if *Barto* is considered to be analogous art, *Barto* still fails to disclose or suggest all of the limitations recited in claim 1. The Office asserts that the kernel discussed in *Barto* corresponds to the personal time, and the working window corresponds to the interval of time. However, claim 1 recites that the at least one respective interval of time is a fixed interval of time. *Barto* states that the provider software agent may shift the edges of the working window

such that it is smaller than the commitment window. *See Barto* column 9, lines 33-35.

Therefore, the working window in *Barto* cannot correspond to the interval of time recited in claim 1, because the interval of time in claim 1 is not flexible and cannot be shifted like the working window can be in *Barto*. Claim 1 specifically states “at least one amount of personal time during which no booking by others are allowed.”

In contrast to claim 1, *Barto* teaches how to coordinate bookings made by others so that there is enough time to finish each task before starting the next one. *Barto* does not disclose or suggest how to leave personal time that is just for the user (or in *Barto*, for the provider), and is not necessarily aimed for completing a certain task. In *Barto*, the working window is never smaller than the kernel, a time period representing the actual time required by the provider to complete the task. *See Barto* column 9, lines 25-37. However, the “at least one respective interval of time” recited in claim 1 can be less than the “at least one amount of personal time,” which the Office asserts corresponds to the “kernel” in *Barto*. The present application states that the time limits can be either allowed percentages of the whole time, or required free time within the whole time stated in hours and/or minutes. *See* page 5, lines 7-10. Therefore, it is clear that the one respective interval of time can be less than the amount of personal time, and therefore the “working window” is not the equivalent to “at least one respective interval of time.” For at least this reason, claim 1 is not disclosed or suggested by the cited references. Therefore, for at least these reasons, claim 1 is not disclosed or suggested by the cited references.

#### Claims 3-16 and 32

Claims 3-16 and 32 all ultimately depend from independent claim 1, and therefore are not disclosed or suggested by the cited references at least in view of their dependencies. *See In re Fine*, 5 USPQ2d 1596, 1600 (Fed. Cir. 1988) (if an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious).

#### Claim 17

Independent claim 17 contains limitations similar to those recited in claim 1, and therefore for at least the reasons discussed above with respect to claim 1 is not disclosed or suggested by the cited references.



Claim 18

Independent claim 17 contains limitations similar to those recited in claim 1, and therefore for at least the reasons discussed above with respect to claim 1 is not disclosed or suggested by the cited references.

Claims 19-22

Claims 19-22 all ultimately depend from independent claim 18, and therefore are not disclosed or suggested by the cited references at least in view of their dependencies. *See In re Fine*, 5 USPQ2d at 1600.

Claim 23

Independent claim 23 contains limitations similar to those recited in claim 1, and therefore for at least the reasons discussed above with respect to claim 1 is not disclosed or suggested by the cited references.

Claim 24

Claim 24 all ultimately depends from independent claim 23, and therefore is not disclosed or suggested by the cited references at least in view of its dependency. *See In re Fine*, 5 USPQ2d at 1600.

Claim 27

Independent claim 27 contains limitations similar to those recited in claim 1, and therefore for at least the reasons discussed above with respect to claim 1 is not disclosed or suggested by the cited references.

Claims 28-31

Claims 28-31 all ultimately depend from independent claim 27, and therefore are not disclosed or suggested by the cited references at least in view of their dependencies. *See In re Fine*, 5 USPQ2d at 1600.

Conclusion

For the reasons discussed above, applicant respectfully submits that the rejections of the final Office Action have been shown to be inapplicable, and respectfully requests that the Board reverse the rejections of the pending claims. If any additional fee is required for submission of this Appeal Brief, the Commissioner is hereby authorized to charge Deposit Account No. 23-0442.

Respectfully submitted,

Date: 28 July 2010



Keith R. Obert  
Attorney for the Appellant  
Registration No. 58,051

WARE, FRESSOLA, VAN DER SLUYS  
& ADOLPHSON LLP  
755 Main Street, P.O. Box 224  
Monroe, CT 06468  
Telephone: (203) 261-1234  
Facsimile: (203) 261-5676  
USPTO Customer No. 004955

## CLAIMS APPENDIX

1. A method comprising:

recording in an electronic schedule apparatus at least one amount of personal time during which no bookings by others are allowed;

storing in the electronic schedule apparatus at least one respective interval of time during which the at least one amount of the personal time is to be reserved, wherein the at least one respective interval of time is a fixed interval of time,

receiving at the electronic schedule apparatus an electronic inquiry about availability for a booking;

determining or indicating whether the at least one amount of personal time can fit within the at least one respective interval in order to accommodate the booking without causing a scheduling conflict; and

rejecting the booking in case of a scheduling conflict between the booking and the personal time,

wherein each of the at least one amount of the personal time is less than the respective interval of time.

2. (CANCELLED)

3. The method of claim 1, further comprising providing the user with an option whether or not to accept the booking, in case of a positive determination or indication that the personal time can fit.

4. The method of claim 3, further comprising automatically making the booking, in case of a positive determination or indication that the personal time can fit.
5. The method of claim 3, further comprising sending a user availability message in response to the electronic inquiry, in case of a positive determination or indication that the personal time can fit.
6. The method of claim 3, further comprising providing the user with a conflict notification and an option whether or not to accept the booking, in case of a negative determination or indication that the personal time cannot fit.
7. The method of claim 1, wherein the at least one respective interval of time represents the user's midday, workday, work week, or any user definable period.
8. The method of claim 1, wherein the at least one amount of the personal time is given as a percentage of the respective interval of time.
9. The method of claim 1, wherein the at least one amount of the personal time is given as a particular continuous or non-continuous duration.
10. The method of claim 1, further comprising reserving at least one fixed block of the personal time.

11. The method of claim 3, further comprising comparing a booking type to a type of the personal time, and if consistent then the scheduling conflict will not occur.
12. The method of claim 3, wherein the electronic inquiry indicates at least one amount of booking time, and at least one respective booking interval that is greater than or equal to the booking time.
13. The method of claim 5, wherein the user availability message includes a question as to whether the availability should be confirmed by consulting the user.
14. The method of claim 12, wherein there is a positive determination or indication that the personal time can fit, and the booking is made by booking both the booking time as well as the respective booking interval which is greater than the booking time.
15. The method of claim 14, wherein a further reservation effectively causes a contraction of the booking interval, if the further reservation has additional requirements about when the booking will occur.
16. The method of claim 1, further comprising displaying the amount of the personal time and the respective interval of time on a shared or individual calendar.
17. A computer-readable medium or media for use in a terminal, the medium or media being encoded with at least part of a data structure for:

recording in an electronic schedule apparatus at least one amount of personal time during which no bookings by others are allowed;

storing in the electronic schedule apparatus at least one respective interval of time during which the at least one amount of the personal time is to be reserved, wherein the at least one respective interval of time is a fixed interval of time,

receiving at the electronic schedule apparatus an electronic inquiry about availability for a booking;

determining or indicating whether the at least one amount of personal time can fit within the at least one respective interval in order to accommodate the booking without causing a scheduling conflict; and

rejecting the booking in case of a scheduling conflict between the booking and the personal time,

wherein each of the at least one amount of the personal time is less than the respective interval of time.

18. An apparatus comprising:

a personal time recorder, configured to record at least one amount of personal time during which no bookings by others are allowed;

an interval storage unit, configured to store at least one respective interval of time during which the at least one amount of the personal time is to be reserved, wherein the at least one respective interval of time is a fixed interval of time;

a receiving component, configured to receive an electronic inquiry about availability for a booking;

a transmitting component, configured to reject the booking in case of a scheduling conflict between the booking and the personal time, wherein the at least one amount of personal time cannot fit within the at least one respective interval in order to accommodate the booking without causing a scheduling conflict; and

a user calendar database, configured to integrate data from the personal time recorder and the interval storage unit into an electronic schedule,

wherein each of the at least one amount of the personal time is less than the respective interval of time.

19. The apparatus of claim 18, further comprising an error check unit configured to notify the user if the amount of the personal time is more than the respective interval, or if the personal time and the respective interval cause any conflict with scheduling information already integrated into the user calendar database.

20. The apparatus of claim 18, wherein the device is a mobile or fixed terminal configured to interact directly with the user.

21. The apparatus of claim 18, wherein the device is a server located remotely from a user terminal.

22. The apparatus of claim 18, further comprising an inquiry processing unit, responsive to an inquiry signal, configured to access the user calendar database in order for the device to provide an availability indicator signal indicative of whether the at least one amount of personal time can fit

within the at least one respective interval so as to accommodate a booking without any scheduling conflict.

23. A system, comprising:

a user terminal, responsive to user input, configured to provide a personal time and interval signal indicative of at least one amount of personal time and a respective interval of time during which the at least one amount of personal time is reserved, wherein the at least one respective interval of time is a fixed interval of time;

a user scheduling component, responsive to the personal time and interval signal, configured to provide a booking availability signal indicative of whether the at least one amount of personal time can be situated so that a booking fits into an electronic schedule; and

an inquiring terminal, responsive to the booking availability signal, configured to indicate to an operator of the inquiring terminal whether the at least one amount of personal time can be situated within the interval so that the booking fits into the electronic schedule, and configured to reject the booking in case of a scheduling conflict between the booking and the personal time.

24. The system of claim 23, wherein the user scheduling component also is for performing at least some scheduling for the operator of the inquiring terminal.

25-26. (CANCELLED)

27. An apparatus comprising:



means for recording at least one amount of personal time during which no bookings by others are allowed;

means for storing at least one respective interval of time during which the at least one amount of the personal time is to be reserved, wherein the at least one respective interval of time is a fixed interval of time;

means for receiving an electronic inquiry about availability for a booking;

means for rejecting the booking in case of a scheduling conflict between the booking and the personal time, wherein the at least one amount of personal time cannot fit within the at least one respective interval in order to accommodate the booking without causing a scheduling conflict; and

means for integrating data from the personal time recorder and the interval storage unit into an electronic schedule,

wherein each of the at least one amount of the personal time is less than the respective interval of time.

28. The apparatus of claim 27, further comprising means for notifying a user if the amount of the personal time is more than the respective interval, or if the personal time and the respective interval cause any conflict with scheduling information already integrated into the user calendar database.

29. The apparatus of claim 27, wherein the device is a mobile or fixed terminal configured to interact directly with the user.

30. The apparatus of claim 27, wherein the device is a server located remotely from a user terminal.
31. The apparatus of claim 27, further comprising means for accessing the user calendar database in order for the device to provide an availability indicator signal indicative of whether the at least one amount of personal time can fit within the at least one respective interval so as to accommodate a booking without any scheduling conflict.
32. The method of claim 1, wherein said personal time is time when no bookings by others are allowed.

**EVIDENCE APPENDIX**

None.

**RELATED PROCEEDINGS APPENDIX**

None.